

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

LEONARD SMITH,

Defendant.

DECISION AND ORDER
17-CR-166-A

This case was referred to Magistrate Judge H. Kenneth Schroeder, Jr., pursuant to 28 U.S.C. § 636(b)(1) for pretrial proceedings. Counsel for the defendant, Leonard Smith, moved to dismiss the Indictment as time barred and to dismiss counts two through fourteen as facially insufficient and multiplicitous. Dkt. No. 8. The Magistrate Judge filed a Report and Recommendation (Dkt. No. 18) on September 10, 2018, that recommends that defendant Smith's motions to dismiss should be denied.

Defendant Smith filed objections to the Report and Recommendation on October 24, 2018 (Dkt. No. 22), and the Government filed response papers (Dkt. No. 24) on November 15, 2018. The Court heard oral argument on December 14, 2018. Pursuant to 28 U.S.C. §636(b)(1), the Court must make a *de novo* determination of those portions of the Report and Recommendation to which objections have been made. After reviewing the submissions of the parties, having hearing oral argument¹, and upon *de novo* review, it is hereby

ORDERED that defendant Smith's motion to dismiss is denied for the reasons

¹ Defendant Smith orally submitted his objections on the papers without argument, and the government was heard in response.

stated in the Report and Recommendation. The Court has considered the defendant's objections, and finds them to be without merit, and it is

ORDERED that the parties shall appear to set a date for trial on January 22, 2019, at 9:00 a.m.

IT IS SO ORDERED.

s/Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: January 14 , 2019